



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF)
BUSINESS AUTOMATION TECHNOLOGIES, INC.)
d/b/a DATA NETWORK SOLUTIONS FOR AUTHORITY)
TO PROVIDE TELECOMMUNICATIONS SERVICES)
THROUGHOUT NEW JERSEY)

ORDER

DOCKET NO. TE03020104

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N. J. S. A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated March 17, 2003, Business Automation Technologies, Inc. d/b/a Data Network Solutions ("Petitioner" or "Data Network") filed a Petition with the Board of Public Utilities ("Board") requesting authority to provide local exchange telecommunications services throughout the State of New Jersey.

Data Network was incorporated under the laws of the State of New Jersey on September 8, 1998. Petitioner's principal offices are located at 162 E. Newman Springs Road, Red Bank, New Jersey 07701.

Petitioner submitted copies of its Articles of Incorporation and a New Jersey Certificate of Good Standing. According to the Petition, Data Network was formed to provide local exchange telecommunications services throughout the State of New Jersey. Petitioner states it has been in business for over four years providing data and telecommunications needs for schools, local government and private corporations. Petitioner further states that it is currently providing resold local exchange services in New Jersey and there have been no civil or criminal proceedings against Petitioner regarding its resold New Jersey services.

According to the Petition, Data Network intends to subscribe to and resell all forms of telecommunications services in the State of New Jersey including, but not limited to, local tone services, message telephone services, wide area telephone service, foreign exchange service, private lines, tie lines, access service, cellular service, local switched service, interexchange services, data, business measured single line services, PBX trunks, DID service, measured and flat rate residential service, access to telecommunications relay services, universal lifeline service, and other services and facilities of communications common carriers and other entities. Access to

operator services, directory assistance, directory listings and emergency services will be through the facilities of communications common carriers and other entities that Data Network will contract with. Petitioner intends to provide innovative and enhanced telecommunications services that provide competitively priced alternatives to the New Jersey ILECs. Data Network asserts that the local exchange and interexchange services that it proposes to offer will satisfy the minimum standards established by the Board. Petitioner agrees to meet the minimum basic local service and interexchange standards, including quality of service and billing standards, as the Board requires of the ILECs with which Data Network seeks to compete. Initially Petitioner intends to provide competitive local exchange services to New Jersey consumers in New Jersey's ILEC territories utilizing resold, unbundled network elements and collocated facilities that it may determine are necessary or economically prudent in furtherance of its telecommunications business. Petitioner indicates it may supplement these services with other facilities and services provided by ILECs, CLECs and/or interexchange carriers. Data Network states it may also install its own switch(es) and additional facilities where warranted by demand. Petitioner states that services will be available on a full-time basis, 24 hours a day, seven days a week.

Petitioner requests a waiver of N. J. A. C. 14:1-4.3 and 14:10 -1.16, which require that books and records be maintained in accordance with the Uniform System of Accounts ("USOA"). In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles.

Petitioner asserts that approval of this Petition will provide multiple public benefits by providing users of telecommunications services with greater reliability and by increasing the competitive choices available to users in the state. Petitioner states that increased competition will create incentives for lower prices, more innovative services and more responsive customer service. Petitioner also states that allowing Data Network to compete with other LECs will facilitate bringing the benefits of full competition to all New Jersey consumers, including an enhanced range of telecommunications services and increase in consumer choices. Petitioner asserts that the public convenience and necessity would be well-served by grant of its petition.

With regard to its technical and managerial qualifications, the Petitioner states that it is currently negotiating an interconnection agreement with Verizon of New Jersey. According to Petitioner it has agreements with Focal of New Jersey, Sprint and Verizon with facilities in Pennsauken and Jersey City, New Jersey for the provision of data and wide area networking services over retail and resold telecommunications services. Petitioner asserts that the experience of its principals, described in Exhibit 2, demonstrates extensive experience in the telecommunications industry.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et. seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Data Network's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange telecommunications services throughout New Jersey subject to approval of its tariff and submission of pro forma, financials for its New Jersey operations. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60, and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and the Division of Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N. J. S. A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N. J. S. A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 the following year.

On or before February 1st of each year, the Petitioner will receive, from the Division of Audits, an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and statement of gross intrastate revenues from operations form is due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that the Petitioner maintain its books and records under the USOA .

DATED: 7/9/03

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)
KRISTI IZZO
SECRETARY

IN THE MATTER OF THE PETITION FOR AN ORDER AUTHORIZING
BUSINESS AUTOMATION TECHNOLOGIES, INC. d/b/a DATA NETWORK SOLUTIONS
TO PROVIDE LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES
THROUGHOUT THE STATE OF NEW JERSEY
DOCKET NO. TE03020104

SERVICE LIST

Serial No.	<u>Name and Address</u>	Serial No.	<u>Name and Address</u>
1	Petitioner's Contact Person: Isaac Fajerman, President Business Automation Technologies, Inc. d/b/a Data Network Solutions 162 E. Newman Springs Road Red Bank, New Jersey 07701	4	Board's Staff: Walter Szymanski, Director Division of Audits Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
2	Petitioner's Attorney: Bernard Reilly, Esq. Dowd & Reilly 90 Maple Avenue Red Bank, New Jersey 07701	5	Board's Staff: Anthony Centrella, Director Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
3	Ratepayer Advocate: Seema M. Singh, Esquire Acting Director and Ratepayer Advocate Division of Ratepayer Advocate 31 Clinton Street, 11 th Floor P.O. Box 46005 Newark, New Jersey 07101	6	Deputy Attorney General: Grace Kurdian Department of Law & Public Safety Division of Law 124 Halsey Street, 5 th floor P.O. Box 45029 Newark, New Jersey 07102